

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**JAMES SMITH,**

**Case No. C-3:07-cv-309**

**Petitioner,**

**Judge Thomas M. Rose  
Magistrate Judge Sharon L. Ovington**

**-v-**

**ERNIE L. MOORE,  
Warden, Lebanon Correctional Institution**

**Respondent.**

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**ENTRY AND ORDER ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATIONS (Doc. #12) IN ITS ENTIRETY;  
OVERRULING SMITH'S OBJECTIONS (Doc. #13); DENYING ANY  
REQUESTED CERTIFICATE OF APPEALABILITY; DISMISSING  
SMITH'S PETITION AND TERMINATING THIS CASE**

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This matter comes before the Court pursuant to Magistrate Judge Sharon L. Ovington's Report and Recommendations (doc. #12) regarding pro se Petitioner James Smith's ("Smith's") Petition for a Writ of Habeas Corpus. The Magistrate Judge has now reviewed Smith's Petition pursuant to the Antiterrorism and Effective Death Penalty Act of 1996. Smith's Petition is without merit and, thus, must be dismissed.

Smith has filed Objections to the Report and Recommendations. (Doc. #13.) The time has run and the Warden has not responded to Smith's Objections. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that the Magistrate Judge's Report and Recommendations is adopted in its entirety. All four of the grounds for relief identified by Smith are without merit.

Therefore, Smith's Petition is DISMISSED. Further, Smith's Objections to the Report and Recommendations are OVERRULED and Smith is denied any requested certificate of appealability. Finally, The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

**DONE and ORDERED** in Dayton, Ohio, this Twentieth Day of July, 2010.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

James Smith at his last address of record